

REMARKS

At the outset, applicants and their attorneys wish to thank the Examiner for the courtesy of the recent interview. The Examiner's careful attention to the application on that occasion is greatly appreciated.

At the interview, it was agreed that amended claims 3 and 4 would be submitted, in lieu of all the claims now in the case.

This is done by the present amendment, exactly as proposed at the interview.

As was pointed out at the interview, there was filed with the amendment of September 2, 2003, an extract from "Handbook of Batteries" in Japanese, with an English translation of the pertinent portions thereof that appear at page 132, lines 8-13.

This handbook, which was published early in 1995, establishes that at the time the present invention was made, it was known that at high temperatures, γ - β phase is formed or β phase alone.

Moreover, in our specification, page 5, line 6, we recite heating at 430°C for four hours.

Thus, we have basis both in the proof of what was in the knowledge of persons skilled in the art (the Japanese handbook) and in our disclosure of such a temperature (page 5 of our specification), sufficient basis to assert in our claims

heating the neutralized manganese dioxide at a temperature and for a time sufficient to produce β -manganese dioxide or γ - β -manganese dioxide.

It is believed that this recitation, which now appears in amended claim 3, cannot properly be criticized on the ground of "new matter".

It also cannot properly be rejected as anticipated by or unpatentable over NAGAYAMA et al., alone or in view of EP 0 373 791.

As was pointed out at the interview, NAGAYAMA indeed heats the manganese dioxide, but only to a temperature of 50°C (column 3, line 59), and then only for the purpose of drying the same.

NAGAYAMA performs a subsequent heating step at high temperature, but only for the purpose of producing lithium manganate, with which the present invention is not concerned.

In view of the recent interview and the present amendment and the foregoing remarks, therefore, it is believed that this application has been placed in condition for allowance, and reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Robert J. Patch, Reg. No. 17,355
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

RJP/fb